

2015 Regular Session

HOUSE BILL NO. 728

BY REPRESENTATIVE GAROFALO

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 4919(A)(introductory paragraph)  
3 and (5), 4922, and 4925(A) and to enact Code of Civil Procedure Articles 4921.1(C)  
4 and 4921.2, relative to justice of the peace courts; to provide relative to the service  
5 of citations; to provide relative to trial procedures; to provide relative to notice of  
6 judgment; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Articles 4919(A)(introductory paragraph) and  
9 (5), 4922, and 4925(A) are hereby amended and reenacted and Code of Civil Procedure  
10 Articles 4921.1(C) and 4921.2 are hereby enacted to read as follows:

11 Art. 4919. Citation; service of citation; justice of the peace courts; district courts  
12 with concurrent jurisdiction

13 A. The citation must be signed by the justice of the peace or the clerk of  
14 court issuing it, with an expression of his official capacity and under the seal of his  
15 office, must be accompanied by a certified copy of any petition, which has been  
16 filed, exclusive of exhibits, even if made a part thereof, and must contain the  
17 following:

18 \* \* \*

19 (5)(a) A statement that the person cited must either comply with the demand  
20 contained ~~of~~ in the pleading filed by the plaintiff against him or make an appearance,  
21 either by filing a pleading or otherwise, in the court issuing the citation within the  
22 delay provided under Article 4920 under penalty of default.

23 (b) If the matter is set for hearing pursuant to Article 4921.1(C), the citation  
24 must contain a statement that the person cited must either comply with the demand

1 of the plaintiff against him or appear in the court issuing the citation at the time and  
2 date provided and that if he fails to appear, judgment may be entered against him.

3 \* \* \*

4 Art. 4921.1. Demand for trial; abandonment; applicability

5 \* \* \*

6 C.(1) Notwithstanding the provisions of Paragraph A of this Article, the  
7 justice of the peace or clerk may set the matter for trial upon filing of a petition. The  
8 date, time, and location of the trial shall be contained in the citation. The first  
9 scheduled trial date shall be not more than forty-five days, nor less than ten days,  
10 from the service of the citation. If the defendant appears, he need not file an answer  
11 unless ordered to do so by the court. If a defendant who has been served with  
12 citation fails to appear at the time and place specified in the citation, the judge may  
13 enter a default judgment for the plaintiff in the amount proved to be due. If the  
14 plaintiff does not appear, the judge may enter an order dismissing the action without  
15 prejudice.

16 (2) If a matter has been set for trial pursuant to Paragraph (1) of this Article,  
17 no default judgement shall be rendered prior to the trial date.

18 Art. 4921.2. Duties of the justice of the peace; trial procedure; rules of evidence;  
19 depositions

20 A. At trial, it is the duty of the justice of the peace to conduct an informal  
21 hearing and to develop all of the facts necessary and relevant to an impartial  
22 determination of the case. The judge may take testimony, summon any party to  
23 appear as a witness in the suit upon his own motion, and do other acts which in his  
24 discretion appear necessary to effect a correct judgment and speedy disposition of  
25 the case. He may attempt to mediate disputes and encourage fair settlements among  
26 the parties.

27 B. The technical rules of evidence are relaxed, and all relevant evidence is  
28 admissible, including hearsay, provided the justice of the peace satisfies himself of  
29 its general reliability, and further provided that the judgment is founded upon  
30 competent evidence.

